IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 8950 of 2005(M)

CC.546/2002 of J.M.F.C.,KUTHUPARAMBA
.....

PETITIONER:

MUHAMMED ROSHAN, S/O.USSANKUTTY,
CHANDRANKANDY HOUSE, NARAVOOR.
P.O.KUTHUPARAMBA.

BY ADV. SRI.K.V.PAVITHRAN
SRI.JAYANANDAN MADAYI PUTHIYAVEETTIL

RESPONDENTS:

PRINCE ABRAHAM, CIRCLE INSPECTOR OF
POLICE, KASARAGOD TOWN.

BY ADV. SRI.T.A.RAMADASAN
SRI.CIBI THOMAS
GOVERNMENT PLEADER SRI.C.KAMAPPU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 8950 of 2005(M)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE PETITION SUBMITTED UNDER 15(2) OF CONTEMPT OF COURT ACT BY THE PETITIONER BEFORE THE MAGISTRATE COURT.

EXT.P2: TRUE COPY OF THE ORDER DATED 4.10.02 IN CMP.NO.2682/2004 OF JFCM KUTHUPARAMBA.

EXT.P3: TRUE COPY OF THE DEPOSITION OF THE RESPONDENT IN C.C. NO.546 OF 2002.

/TRUE COPY/

P.A TO JUDGE

R.BASANT, J

W.P(C).No.8950 of 2005

Dated this the 29th day of March, 2007

JUDGMENT

The petitioner is the accused in a prosecution pending before the learned Judicial Magistrate of the First Class, Kuthuparamba. The prosecution is under the provisions of the Essential Commodities Act. The respondent was a Sub Inspector of Police at the relevant time and it is he who had conducted the search and seizure. When the respondent was examined in court, he allegedly gave answers which bordered on impropriety and arrogance. The specific words are extracted in para.3 of the Memorandum of Revision and the same is confirmed by the copy of the deposition, which is produced as Ext.P3. The relevant answer reads as follows:

2. The petitioner wanted action to be taken against the respondent under the Contempt of Courts Act. He filed an application to the Court to make a reference of the objectionable conduct to the High Court under Section 15(2) of the Contempt of Courts Act. The

learned Magistrate, by the impugned order-Ext.P2, took the view that though the answer given and the attitude were improper, it was not necessary to resort to any proceedings under the Contempt of Courts Act. The learned Magistrate took note of the conduct of the respondent in various other cases as also in the course of the same case at different points of time.

3. The petitioner has come to this Court aggrieved by the impugned order. I have heard the learned counsel for the petitioner and the counsel for the respondent. It has often been said that action for contempt can only be the medicine of law and not its daily diet. The learned Magistrate, before whom the alleged contempt was committed, has considered the objectionable conduct and has come to the conclusion that it is not expedient in the interests of justice to make any reference. I am satisfied, in these circumstances, that the jurisdiction under Article 226 of the Constitution need not be invoked to interfere with the impugned order.

4. This W.P(C) is, in these circumstances, dismissed.

(R.BASANT, JUDGE)

rtr/-